



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2015-0214]

Independent Assessment of Nuclear Material Control and Accounting Systems

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory Guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 1 to Regulatory Guide (RG) 5.51, “Independent Assessment of Nuclear Material Control and Accounting Systems.” Revision 1 is based on experience gained since RG 5.51 was initially published in June 1975, and reflects revisions to the NRC’s material control & accounting (MC&A) regulations that have been made since 1975. Updates include use of the term “independent assessment” to replace “management review,” and use of the term “inventory difference” to replace “material unaccounted for.”

DATES: Revision 1 to RG 5.51 is available on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Please refer to Docket ID **NRC-2015-0214** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2015-0214**. Address questions about NRC dockets to Carol Gallagher;

telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Document collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. Revision 1 to RG 5.51 may be found in ADAMS under Accession No. ML16223A915. The regulatory analysis supporting Revision 1 may be found in ADAMS under Accession No. ML16223A917.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

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FOR FURTHER INFORMATION CONTACT: Glenn Tuttle, Office of Nuclear Material Safety and Safeguards, telephone: 301-415-7230, e-mail: Glenn.Tuttle@nrc.gov, or Mekonen Bayssie, Office of Nuclear Regulatory Research, telephone: 301-415-1699, e-mail: Mekonen.Bayssie@nrc.gov; U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a revision to an existing guide in the NRC's "Regulatory Guide" series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

The proposed Revision 1 of RG 5.51 was published for comment in September 2015, and carried the temporary identification of Draft Regulatory Guide, DG-5049, "Independent Assessment of Nuclear Material Control and Accounting Systems." This guidance reflects the post 1975 revisions made to the NRC's MC&A regulations, that are now in title 10 of the *Code of Federal Regulations* (10 CFR) part 74, "Material Control and Accounting of Special Nuclear Material [SNM]." The MC&A provisions requiring independent assessments that this guidance applies to are:

1) 10 CFR 74.31(c)(8) established in 1985 and applicable to licensees of facilities authorized to hold SNM of low strategic significance (such facilities are often referred to as "Category III fuel cycle facilities");

2) 10 CFR 74.33(c)(8), established in 1991 and applicable to licensees authorized to operate uranium enrichment facilities;

3) 10 CFR 74.43(b)(8), established in 2002 and applicable to licensees of facilities authorized to hold SNM of moderate strategic significance (such facilities are often referred to as "Category II fuel cycle facilities"); and

4) 10 CFR 74.59(h)(4), established in 1987 and applicable to licensees of facilities authorized to possess five or more formula kilograms of strategic SNM (such facilities are often referred to as “Category I fuel cycle facilities”).

The updated guidance also incorporates experience gained since RG 5.51 was initially published in June 1975. For example, the guidance for performing independent assessments has been expanded to include process monitoring and item monitoring for Category I fuel cycle facilities, and to include guidance for uranium enrichment facilities. In addition, this revision addresses changes in MC&A terminology since the RG was published in 1975; for example, the term “management review” has been replaced by “independent assessment,” and “material unaccounted for” by “inventory difference.”

II. Additional Information

The NRC published a notice of the availability of DG-5049 in the *Federal Register* on September 17, 2015 (80 FR 55880) for a 60-day public comment period. The public comment period closed on November 16, 2015. Public comments on DG-5049 and the staff responses to the public comments are available under ADAMS under Accession No. ML16223A913.

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801-808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

Issuance of this final regulatory guide does not constitute backfitting as defined in 10 CFR 70.76, 72.62, or 76.76. As discussed in the “Implementation” section of this regulatory guide, the NRC has no current intention to impose this regulatory guide on holders of current licenses. This regulatory guide may be applied to applications for special nuclear material subject to 10 CFR part 74 docketed by the NRC as of the date of issuance of the final regulatory guide, as well as future applications after the issuance of the regulatory guide. Such action does not constitute backfitting as defined in 10 CFR 70.76, 72.62, or 76.76, inasmuch as such applicants or potential applicants are not within the scope of entities protected by these backfit provisions. This RG provides guidance on recordkeeping and reporting requirements with respect to material control and accounting, as set forth in 10 CFR part 74. The regulatory position stated in this guidance demonstrates a method that the NRC staff finds acceptable for an applicant or licensee to meet the requirements of the underlying NRC regulations. This guidance imposes no new requirements on licensees, and information collection and reporting requirements with respect to material control and accounting are not included within the scope of the NRC’s backfitting protections.

Dated at Rockville, Maryland, this 21st day of October, 2016.

For the Nuclear Regulatory Commission.

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Division of Engineering,
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